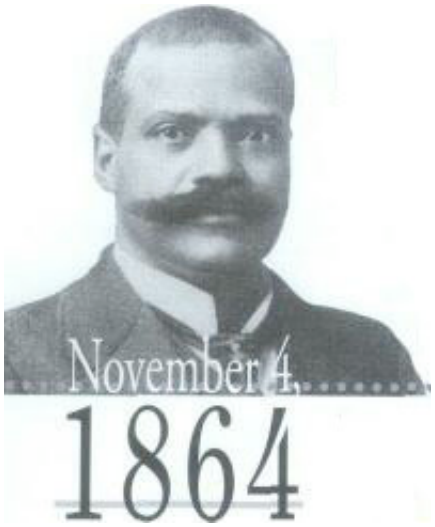
C·O·D·E·S



THE ILLINOIS BLACK CODES

Roger D. Bridges, Historical Research and Narrative

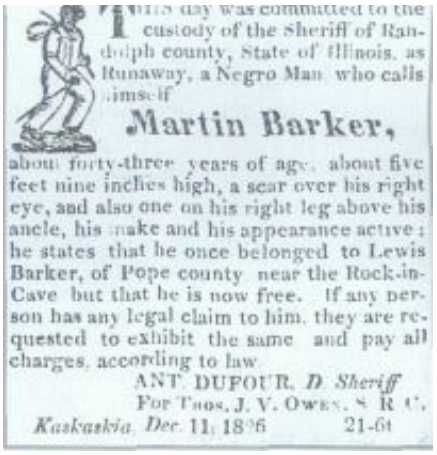
"Your petitioner, though humble in position, and having no political status in your State, notwithstanding I have resided in it for twenty-five years, and today am paying taxes on thirty thousand dollars, most humbly beseech you to recommend in your Message to the Legislature... the repeal of the Black Laws of this your State." Thus began John Jones's letter to Illinois Governor Richard Yates, November 4,1864. By the time Jones wrote this letter he was the best-known and wealthiest African-American in the state. Though wealthier by far than most Illinoisans, still Jones could not vote.

Born in North Carolina in 1816 or 1817, Jones had arrived about 1841 in Madison County, Illinois, where he took up residence illegally. It was not until three years later, as he prepared to move to Chicago with his wife and infant daughter, that he filed the necessary bond and received his certificate of freedom, a document required by every black person in the state. Because he had been born out of state, under the law of 1829 he was required to file a bond of $1,000 to insure that he would not become "a charge to the county," or violate any laws. Although Illinois entered the Union nominally as a free state in 1818, slavery had existed there for nearly one hundred years. It would continue to exist, albeit under increasing restrictions, until 1845.

But the elimination of legal slavery did not mean the removal of the Black Codes. Indeed, it was not until the passage of the Fifteenth Amendment to the U.S. Constitution and the adoption of the Illinois Constitution of 1870 that the last legal barriers (but not the societal) ended. Like their midwestern neighbors, most early Illinois settlers believed in white supremacy and African-American inferiority. Consequently,


FOR SALE.
A likely Negro Girl,
16 years of age.
For further particulars, enquire at this Office.
Kaskaskia Dec 12, 1826. 21-3t
PUBLIC NOTICE.

Illinois' constitutions and laws reflected those views.

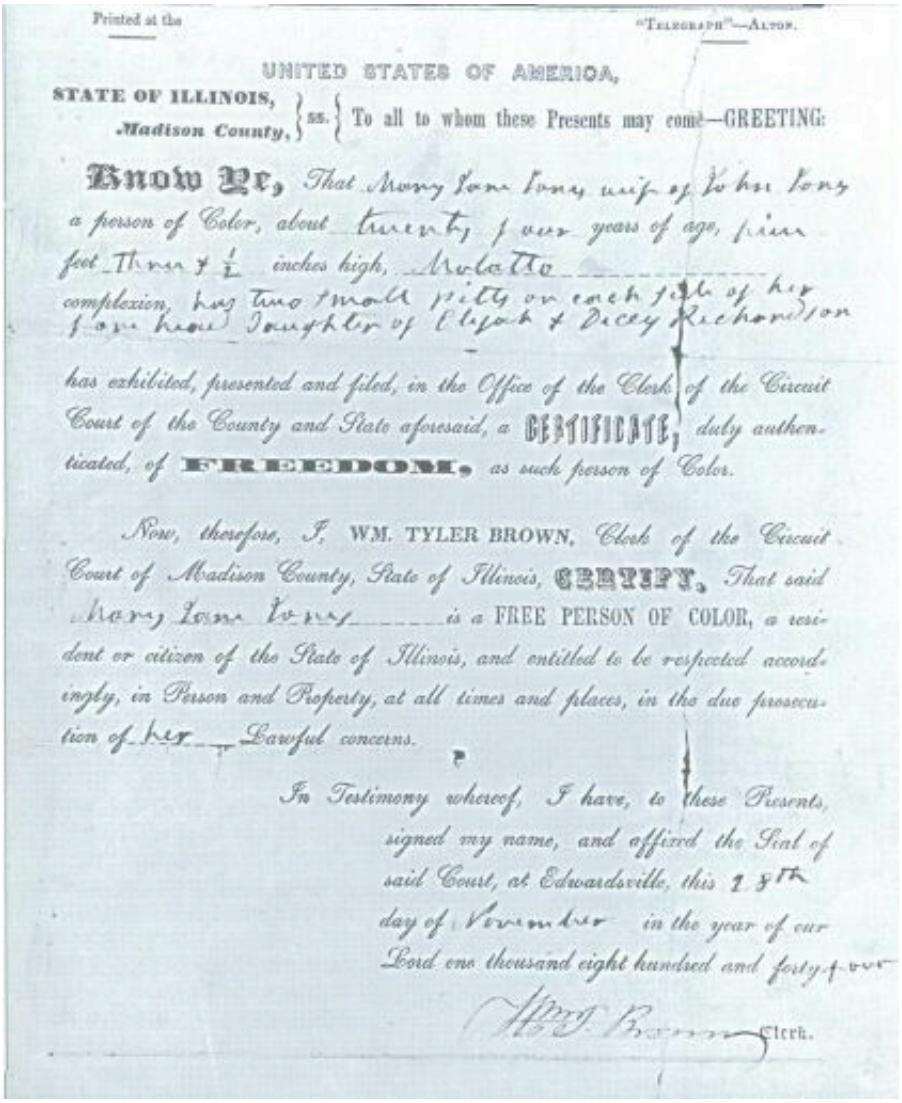

custody of the Sheriff of Randolph county, State of Illinois, as Runaway, a Negro Man who calls himself
Martin Barker,
about forty-three years of age, about five feet nine inches high, a scar over his right eye, and also one on his right leg above his ancle, his make and his appearance active; he states that he once belonged to Lewis Barker, of Pope county near the Rock-in-Cave but that he is now free. If any person has any legal claim to him, they are requested to exhibit the same and pay all charges, according to law.
ANT. DUFOUR, D. Sheriff
For Thos. J. V. Owen, S. R. C.
Kaskaskia, Dec. 11, 1826 21-6t

According to John Mason Peck, an early Illinois Baptist missionary and historian, the French introduced slavery into the French-controlled Illinois country, perhaps as early as 1717 or as late as 1721. The British, who took control of the Illinois Country in 1765, permitted slavery to continue, and so did the Americans after George Rogers Clark's conquest in 1778. Although the Northwest Ordinance of 1787 prohibited slavery or involuntary servitude, territorial and later state laws and interpretations permitted the retention of French slaves. When Congress admitted Illinois as a state in 1818, the state's constitution permitted limited slavery at the salt mines in Massac County, and it legalized the continued bondage of slaves introduced by the French. At the same time, the new constitution included a provision

---

that would eventually free even those slaves by declaring that the children of slaves were to be freed when they reached adulthood: for women that age was eighteen, for men it was twenty-one. Thus, it appeared that the last slave would not be freed until 1839, or twenty-one years after the adoption of the state constitution and Illinois' admission into the union.

Legislators in the first General Assembly passed measures designed to discourage African-Americans from coming to Illinois. Blacks were denied suffrage, and other laws deprived them of most rights accorded free white men. African-Americans were prohibited from immigrating without a certificate of freedom. Moreover, they had to register that certificate, along with the certificates of any children, immediately upon entering the state. Among other things, the state legislature intended to discourage Illinois from becoming a haven for runaway slaves. Any runaway found in the state could be sentenced by a justice of the peace to thirty-five lashes. African-Americans assembling in groups of three or more could be jailed and flogged. Additionally, they could not testify in court nor serve in the militia. Finally, state law forbade slaveholders, under penalty of a severe fine, from bringing slaves into Illinois in order to free them.



Printed at the "Telegraph"—Alton.

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, } ss. } To all to whom these Presents may come—GREETING:
Madison County, }

Know Ye, That Mary Jane Toney wife of Jo hn Toney a person of Color, about twenty four years of age, five feet three & ½ inches high, Mulatto complexion, has two small pitts on each side of her face born daughter of Elijah & Dicey Richardson

has exhibited, presented and filed, in the Office of the Clerk of the Circuit Court of the County and State aforesaid, a CERTIFICATE, duly authenticated, of FREEDOM, as such person of Color.

Now, therefore, I, WM. TYLER BROWN, Clerk of the Circuit Court of Madison County, State of Illinois, CERTIFY, That said Mary Jane Toney is a FREE PERSON OF COLOR, a resident or citizen of the State of Illinois, and entitled to be respected accordingly, in Person and Property, at all times and places, in the due prosecution of her Lawful concerns.

In Testimony whereof, I have, to these Presents, signed my name, and affixed the Seal of said Court, at Edwardsville, this 28th day of November in the year of our Lord one thousand eight hundred and forty four

Wm. T. Brown Clerk.

A Certificate of Freedom

3

said complainant's libel against her; and this she shall not omit under the penalty of the law.

In testimony whereof, I, Jonathan Mayo, clerk of the said court, have hereunto set my hand and private seal, no official seal being provided, this 8th day of July, A. D. 1823.

15-4t J. MAYO, Clerk.

$50 Reward!!!

RANAWAY from the subscriber, living in Tipton county, Tennessee, a negro man slave, named

HARRY,

about 34 years of age, 5 feet 11 inches high, very stout built, with large fine teeth and very wide spaces between them, talkative of speech, but speaks distinct and clear; had on when he left, a blue cassinet coat, and blue home-spun jeans pantaloons; he went away on the 15th of May last, and is expected to steer to St. Clair county, Illinois, where he has a mother living.

Whoever will apprehend and confine said slave, so that the owner gets him again, and give information to George Evans, at Jonesborough, Union county, Illinois, shall receive the above reward, and all lawful charges. OWEN EVANS.

July 13, 1823. 14-4t*

To counteract those repressive measures, just before the General Assembly convened following the election of 1822, "Free Persons of Color" submitted a petition requesting the right of suffrage. In the memorial they noted, "We pay taxes, work on public high-ways, like others ...." The petition was denied, and some legislators increased their efforts to bring additional slaves into the state. When the General Assembly convened in 1822, pro-slavery advocates succeeded in passing a resolution requiring the state's citizens to vote on whether to call a constitutional convention. That decision provoked a long and bitter struggle.

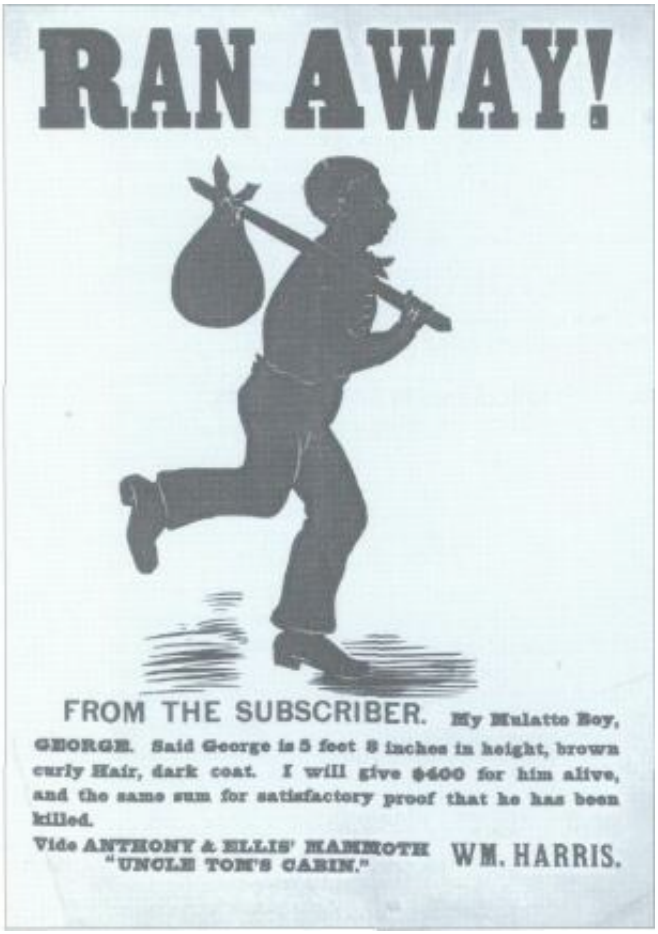
The state's leading political, religious, and social leaders engaged in a strenuous war of words in newspapers and pamphlets, in the pulpit, and

on the stump. Many of the state's leading founding politicians, including its first governor, Shadrach Bond, and first lieutenant governor, Pierre Menard, held slaves and supported the introduction of a pro-slave constitution. Newly elected Governor Edwards Coles, secretary of state (British-born) Morris Birkbeck, and pioneer Baptist missionary and historian John Mason Peck led the anti-slavery forces.

Illinois voters rejected (6,822 against, 4,950 for) the call for a constitutional convention. But further repressive measures were taken against the state's African-American residents. The state's newspapers were filled with advertisements from neighboring states offering rewards for the capture and return of runaway slaves. John Crain, sheriff of Washington County, advertised that he had taken two runaway slaves into custody. Unless their owners called for them, paid the charges and removed them from the state, they "will be hired out as the law directs." Slave hunters such as William Rose of Nashville, Tennessee, advertised their services as agents to find runaways in Illinois.

Not only did Illinois newspapers carry advertisements for runaways, the state attempted to further discourage black immigration by raising new barriers. The 1829 law required any free black to register in the county seat and post a $1,000 bond to cover costs should they become indigent or violate state or local laws. Since few black men or women had such sums available, they usually had to find a friendly white man to act as surety for them. At the same time, blacks also had to register their certificates of freedom from the state from which they immigrated.

Despite the restrictions and repression, the Illinois black population continued to grow slowly. While the number of slaves continued to decline, the indenture system remained harsh and restrictive. As late as 1843, United States Senator-elect Sidney Breese, needing money to set up housekeeping in Washington, D.C., wrote to former Lieutenant-Governor Pierre Menard, offering to "place in your hands some valuable negroes with power to sell them. . .." By 1845, however, the last legal remnants of slavery



Broadside about a fugitive slave

4

---

ended when the state supreme court in *Jarrot v. Jarrot*, declared that even the slaves introduced by the French were entitled to freedom under the provisions of the Northwest Ordinance of 1787 and the Illinois Constitution.

The court's decision, however, did little to change the attitudes of white Illinoisans. B.T. Burke, sheriff of Macoupin County, advertised that he had incarcerated a slave recently runaway from John Henderson in Missouri. In December 1845, an Illinois resident declared in a sarcastic letter to the *New York Tribune*:

> **In Illinois, in addition to considering slavery as an *evil*, its *concentrated wisdom*, in the shape of the Legislature, considers it *criminal* to be a slave. If a man happens to have a dark complexion, it is *prima facie* evidence that he is guilty of the crime. . . .If, through ignorance, want of friends, or other causes, he fails of producing such proof [of his freedom], he *of course*, is thrown into jail as a *slave*, to await the coming of his master—being, in the mean time, minutely described in a**

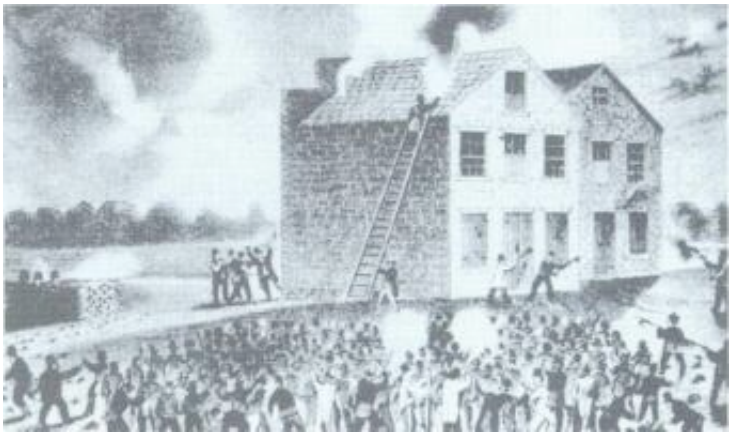
public advertisement.

Still, pressure continued to mount to do more to maintain Illinois as a "white man's state." One way to do that, believed some, was to promote the colonization of blacks in the Caribbean or in Liberia. The state had an active colonization society that included such luminaries as Stephen A. Douglas, John Mason Peck, and others. The reasoning of many is illustrated in a communication by a Belleville colonizationist who wrote:

> **By referring to the census of this State, from 1845, it will be seen that there has been a large increase of the free black population of St. Clair county, in the past few years. . . . One cause, and one that is likely to increase the evil to a much greater extent still, is found in the fact, that the slave states are adopting measures to expel from their midst, their entire free colored population. Some of the largest of the free states have passed laws, prohibiting the settlement of these expelled blacks upon their territory. So they become a vagrant, floating population, to which St. Louis is a common rendezvous. But, they cannot stay there, so they are thrown into Illinois; and especially into St. Clair county. So much for the causes of the increase of our colored population.**

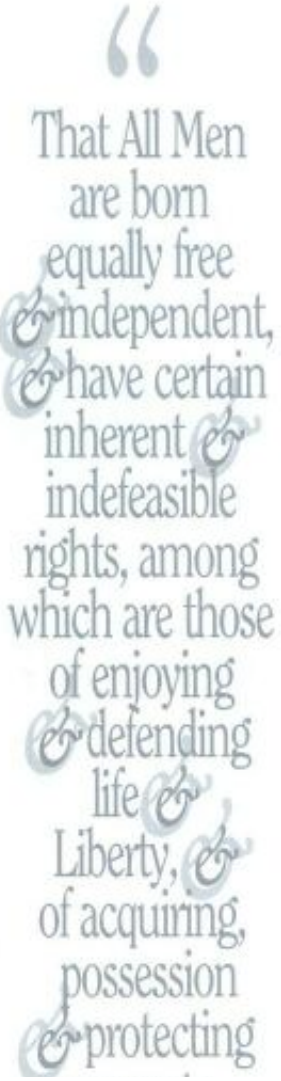
Many Illinoisans, both for and against slavery, supported colonization. Most African-Americans and white abolitionists, however, rejected the repatriation of the nation's African descendants. They also denounced gradual emancipation and second-class status for these residents. Abolitionists generally supported both immediate emancipation and granting full citizenship with equal rights for all the nation's black residents. Although William Lloyd Garrison, Frederick Douglass, and John Brown were the nation's best-known abolitionists, Illinoisans John Jones, Joseph H. Barquet, and Elijah Lovejoy shared those views.

Illinois' proposed new constitution in 1847 included a requirement that the General Assembly pass laws to prohibit the emigration of free African-Americans into the state and to bar slaveholders from bringing slaves into the state for the purpose of freeing them. As the constitution was being debated by the state's citizens, John Jones of Chicago took the lead on behalf of Illinois' African-Americans to defeat the offending section. His attack on slavery called forth the image of the nation's founders by appealing to the same natural rights claimed by Jefferson, Adams, Franklin, and others in 1776. He urged the state's enlightened inhabitants to reject the barbaric slave relics from the eighteenth century:



**The burning of Elijah Lovejoy's newspaper,
Alton, Illinois, November 7, 1837**

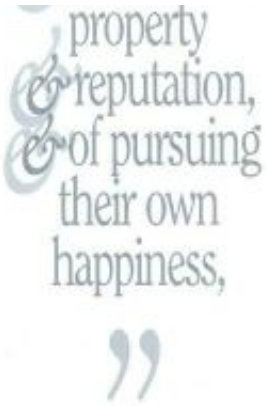
5



Now, sirs, we maintain that our claims to the rights of citizenship are founded on an original agreement of the contracting parties, and there is nothing to show that color is a bar in the agreement. It is well known, that when this country belonged to Great Britain, the colored people were slaves, according to the interpretation of the then existing laws. But the darkness of the 18th century has gone by, and we live in the 19th, and in a Republic, too, wherin [sic] men understand the principles of government, and a man is regarded as a man whether his face be black or white.

There were others who shared Jones's views among both races. The *Pike County Free Press* and the *Watchman of the Prairies* both carried strong articles against the adoption of the offending article in the constitution.

The exclusion provision, which was submitted separately to the voters of Illinois, won overwhelming support. Following the adoption of the constitution, including the exclusion section, Jones again took up his pen and highlighted the constitution's inconsistencies. He noted that while the constitution declared "That All Men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and Liberty, and of acquiring, possession and protecting property and reputation, and of pursuing their own happiness," its framers had gone on to restrict suffrage to white males. He noted that among those "called white, and whose legitimate ancestors, as far back as we can trace them, have never been held in slavery, there are many shades of difference in their complexions. Then how will you discriminate (be nice about it): And at



what point will you limit the distinction?"

Later that year, the "Colored People of Chicago" met to draft resolutions opposing the new constitution and the "unjust and partial laws existing in the State of Illinois, which excludes the *Free Man of Color* from all access to Law by Oath, and thereby renders him dumb, so that he cannot be a party in law against a white man...." The meeting then adopted a series of resolutions expressing those views and agreed to petition the "Legislature to repeal the aforesaid unjust and partial laws."

Despite the injunction to do so, the Illinois General Assembly failed to adopt the new measures in 1849 and 1851. But in 1853, under the leadership of southern Illinois Democrat John A. Logan, the General Assembly adopted the draconian "Black Law" of 1853. For the most part, the law simply brought together in one place several existing laws. Under this law, no black from another state could remain within the Illinois borders for more than ten days. Beyond ten days and he or she was subject to arrest, confinement in jail, and a $50 fine and removal from the state. If unable to pay the fine, the law directed the sheriff to auction the offending African-American to the bidder willing to pay the costs and the tine and to work the "guilty" party the fewest number of days. If the convicted man or woman did not leave within ten days after completing the required service, the process resumed, but the fine was increased $50 for each additional infraction. Although most newspapers opposed the measure, there is but little doubt that it reflected the views of much of the state's population.

For the next twelve years, Illinois African-Americans labored under one of the harshest laws in the nation. But, it did not go uncontested. One of the most interesting challenges came from the pen of Joseph H. Barquet, a young black Chicagoan born in North Carolina and recently arrived from Tennessee. He began his objection to the harsh law by illustrating its absurdity when carried to its logical conclusion. Essentially, he asserted, black men will be forced to marry white women, an abhorent thought to whites. Barquet reasoned:

> **The recent law of inhibition against the negro, passed by our legislature, (if we can say ours, for we did not help to elect them,) bears hard, very hard against Sambo, and to lay the case before the public is my desire. Well, sir, I wish to annex myself to a wife, but the commodity in colors is scarce in our market! What shall we do? If we go from home to import one, the dear creature will be sold to some heartless Logan. What then shall we do? The laws of Illinois do not recognize the marriage tie between a white and negro, and if Mr. Logan shuts out the black girls, why we must take the white ones, that's all.**

6

He then chided the state's leaders for their injustice to its black citizens. He warned that this act of despotism would lead to further restrictions. He concluded that "Europe smiles and taunts American liberty. Her despots smile when Illinois plucks from the eagle, emblem of our country, her lost plumage quill dipped in blood to sign slavery for freemen."

Throughout the period, Illinois African-Americans resisted, as best they could, the ubiquitous effects of the Black Laws. In addition to meetings and petitions objecting to the laws over the years, they formed several self-help organizations. Perhaps most important was the creation in 1839 of the Wood River Colored Baptist Association in St. Clair County. It soon developed a number of important early leaders in the state, including John Jones, the son-in-law of H. H. Richardson, one of the association's founders. The association took the lead in opposing Illinois' repressive race legislation and encouraged education, even when it had to be separate. Its leaders took the lead in organizing schools and encouraging the state to force local school districts to allocate tax money for "colored" schools in proportion to taxes paid by its colored residents. Many of the protest meetings over the years were held in church structures.

John Jones (standing) talking about the repeal of Illinois' Black Codes in 1865

The Illinois Black Laws continued in force until the end of the Civil War. Indeed, in the midst of the Civil War, Illinois held a constitutional convention and a new constitution was submitted to the people of the state for ratification. One of the most remarkable features of that document were three provisions that wrote the Black Laws into the proposed constitution. Although Illinois voters rejected the constitution, they overwhelmingly approved the anti-black provisions. Eventually, however, with prodding from John Jones and the logic propelled by the results of the Civil War, the Illinois General Assembly repealed the Black Laws in early 1865. The repeal, however, did not confer suffrage or civil rights on the state's African-Americans; they had to await the Fourteenth and Fifteenth Amendments to the U.S. Constitution and the Illinois Civil Rights Act of 1885.

Click Here for Curriculum Materials

7